

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
SCOTT MAIONE and TASHA OSTLER,
(on behalf of their three infant children)

Plaintiffs,

-against-

Index No. 18-cv-7452
(KMK)

DR. HOWARD A. ZUCKER, Commissioner of the New York State Department of Health, The New York State Department of Health, SAMUEL D. ROBERTS, Commissioner of the New York State Office of Temporary and Disability Assistance-Office of Administrative Hearings, The Office of Temporary and Disability Assistance-Office of Administrative Hearings, JOAN SILVESTRI, Commissioner, Rockland County Dept. of Social Services, and SUSAN SHERWOOD, former Commissioner of Rockland County Dept. of Social Services,

Defendants
-----X

**DECLARATION OF
LARRAINE S. FEIDEN
IN SUPPORT OF
MOTION TO DISMISS**

Larraine S. Feiden, an attorney duly admitted to practice in the State of New York and this Court, hereby declares, pursuant to 28 U.S.C. § 1746, under penalty of perjury, that the following statements are true and correct:

1. I am a Principal Assistant County Attorney in the office of THOMAS E. HUMBACH, County Attorney for the County of Rockland, counsel to defendants Joan Silvestri, Commissioner, Rockland County Dept. of Social Services, and Susan Sherwood, former Commissioner of Rockland County Dept. of Social Services (collectively “County Defendants”).

2. This Declaration is submitted in support of the County Defendants’ Motion to Dismiss the Second Amended Complaint pursuant to Rule 12(b)(1), (5) and (6) of the Federal Rules of Civil Procedure.

3. In accordance with Your Honor’s rules, annexed hereto as Exhibit A is a copy of the pertinent pleadings.

3. County Defendants submit true and correct copies of the following Exhibits in support of the instant motion:

- Exhibit A: Second Amended Complaint dated December 4, 2020 [ECF Doc. No. 154];
- Exhibit B: Maione v. Medical Answering Svcs., LLC, No. 17-CV-8106 (JMF), 2018 WL 4682018 (S.D.N.Y. 2018);
- Exhibit C: Maione v. Medical Answering Svcs., LLC, No. 18-3205, 2019 WL 1858370 (2d Cir. 2019);
- Exhibit D: Ostler v. New York State Dept. of Health, No. 000610/2017 (N.Y. Sup. Ct. Rockland Cnty. November 27, 2017) (Eisenpress, J.);
- Exhibit E: State of New York Department of Health (“DOH”) Decision After Fair Hearing issued November 13, 2014;
- Exhibit F: DOH Corrected Decision After Fair Hearing issued December 14, 2016;
- Exhibit G: Maione v. Zucker, No. 18-cv-7452 (KMK), 2020 U.S. Dist. LEXIS 176724 (S.D.N.Y. 2020) [ECF Doc. No. 140].

WHEREFORE, it is respectfully requested that this Court grant the instant motion in its entirety, thereby dismissing Plaintiffs’ Second Amended Complaint as a matter of law, together with such other and further relief as this Court may deem just and proper.

Dated: June 4, 2021
New City, New York

THOMAS E. HUMBACH
County Attorney
Attorneys for County Defendants
Rockland County Department of Law
11 New Hempstead Road
New City, New York 10956
(845) 638-5180

By: /s/ Lorraine S. Feiden
Lorraine S. Feiden
Principal Assistant County Attorney
feidenl@co.rockland.ny.us